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C O N F I D E N T I A L SECTION 01 OF 03 BUCHAREST 001298

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SUBJECT: ROMANIA: AMBASSADOR'S SPEECH, BRITISH CRITICISM OF PENAL CODE AMENDMENTS ELICITS SUPPORT AND SOME BRICKBATS

REF: A) BUCHAREST 1267 B) BUCHAREST 1230 C) BUCHAREST

1213 D) BUCHAREST 1198 E) BUCHAREST 1179

Classified By: DCM Mark Taplin for Reasons 1.4 (b) and (d).

**¶11.** (C) Summary: Although President Basescu announced on November 20 that he is returning a package of controversial amendments to the Criminal Code and Criminal Procedure Code to Parliament, only a simple majority of parliamentarians is needed to enact the amendments into law over his veto, notwithstanding the objections of top Romanian law enforcement officials, watchdog NGOs, and many Romanian media commentators. The Ambassador's November 15 speech expressing strong concern about the proposed amendments and their potential to negatively impact on justice reform and the fight against corruption in Romania continues to resonate, as does a subsequent public statement of support from the UK Embassy. Most of the reaction has been very positive, both in public and in private. However, some politicians--most notably parliamentary Speaker Bogdan Olteanu and Minister of Justice Chiuariu -- have continued to voice criticism. Olteanu's intemperate remarks about the Ambassador's political appointment as U.S. envoy to Romania -- especially his assertion that it would have been considered "corrupt" here -- has been roundly panned, including even from within Liberal ranks. Yet despite the fact that the serious weaknesses in the proposed amendments are now a topic of open debate, with even their proponents acknowledging that they are seriously flawed, it remains to be seen how many of the dodgy provisions will be altered or withdrawn, especially since many influential political figures who are under criminal investigation stand to gain virtual immunity from prosecution should the amendments become law. End Summary.

**¶12.** (SBU) President Basescu on November 20 vetoed parliament's amendments to the Criminal Code and Criminal Procedure Code. He commented that if the amendments become law, the criminal prosecutions of a long list of "corrupt" individuals -- including Dinu Patriciu, Ovidiu Tender, Adrian Nastase, former ministers Codrut Seres and Traian Remes, and even current Justice Minister Tudor Chiuariu -- would be stopped in their tracks. The law now returns to parliament, which has the final say; only a simple majority is needed to override the president's veto.

**¶13.** (C) Basescu's veto follows a November 15 speech by the Ambassador expressing concern over the negative effects of the penal code changes on Romania's ability to combat corruption, trafficking, and other complex crimes. The Ambassador's speech also expressed concern over the

non-transparent way the amendments were passed without any consultation with legal experts or civil society, as well as concern regarding the sanctioning of journalists who broadcast images of corruption (ref C). President of the Chamber of Deputies Bogdan Olteanu (PNL) immediately launched an ad hominem attack on the Ambassador, alleging that corruption and patronage played a role in the Ambassador's own appointment and that the Ambassador exceeded his diplomatic mandate by speaking "unofficially" and publicly against actions of the Romanian Parliament. However, after the UK Embassy issued a press release that evening strongly backing USG concerns, leading PNL strategist Crin Antonescu publicly rebuked Olteanu's "excessive" and "nervous" remarks as not being the official view of the Liberal Party. At a subsequent meeting with Polcouns at PNL Headquarters, PNL Vice President Dan Motreanu echoed Antonescu, noting that Olteanu was not a member of the party's senior executive leadership and that his views were his own. Motreanu also took pains to underscore the PNL's continued desire for a "good relationship" with the Embassy.

¶4. (C) Overall, the political class divided along predictable lines. Pro-Basescu Liberal Democratic Party President Theodore Stolojan demanded Olteanu's resignation, calling his attack on the U.S. unprecedented since the Ceausescu era. Democratic Party General Secretary Vasile Blaga criticized Olteanu for playing a nationalist card in order to cover up disobedience to foreign commitments. Social Democratic Vice President Victor Ponta (who had just returned from a voluntary visitor program including briefings with the US Department of Justice) affirmed that his PSD party would not support the amendments as they were the actions of "certain individuals," not of the whole parliament. Fellow party member Vasile Puscas criticized Olteanu's understanding of diplomacy, underlining the strategic partnership Romania has

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with the USG. PSD President Geoana also took aim at Olteanu, noting the damage that errant "schoolkids" including Olteanu and FM Cioroianu had wreaked on Romania's foreign policy. Geoana urged Olteanu to apologize, stating it was unacceptable for the third-ranking Romanian state official to launch an "infantile" attack against a high official of a friendly state. Democratic Party President Emil Boc called for Olteanu's resignation and expressed agreement with the Ambassador's comments on the amendments.

¶5. (C) On the other hand, some of the old post-Communist guard lined up against the Ambassador's comments, arguing that they constituted "interference" in Romania's internal affairs. (Few tried to defend Olteanu's personal attack against the Ambassador, however.) For instance, the Conservative Party's Sergiu Andon, who heads the Chamber of Deputies legal committee, along with Greater Romania Party Vice President Lucian Bolcas, defended the amendments which they helped quietly shepherd through the Parliament. Deputies Ioan Timis (PNL) and Eugen Nicolicea (PSD), who introduced the amendment to criminalize the broadcasting of investigative audio/visual evidence, demanded that the Ambassador be declared "persona non grata" and called on the persons who "misinformed" him to be punished with high treason and 15-25 years in prison. The PSD's Former PM Adrian Nastase, former President Ion Iliescu, and Senate Speaker Nicolae Vacarouiu also criticized USG "interference," with Iliescu comparing it to Soviet practices. Yet most press articles greeted these critiques--especially the Iliescu comment--with derision. Prime Minister (and PNL President) Calin Popescu Tariceanu walked the tightrope by acknowledging publicly that he believed the law was "bad" but insisting that it did not give any foreign diplomat the right to make such statements. (Note: Tariceanu followed up his comments, however, with an effusive, handwritten note to the Ambassador on the occasion of the U.S. Thanksgiving holiday. His chief of staff told us that it was intended to reassure the Ambassador that he still had an open door with the PM.)

¶6. (C) Meanwhile, Justice Minister Tudor Chiuariu, who is rumored to have employed the resources of the Ministry of Justice to actually draft the complex amendments, said that the Ambassador's comments were "way out of place." Chiuariu, who is himself under investigation by Romanian prosecutors, also lashed out at the resident Reuters correspondent in Bucharest, who reported that the Minister had gone so far as to criticize the European Commission in an interview on November 20 for hampering Romania's efforts to fight corruption by not allowing the prosecuting powers of three separate institutions to be concentrated into a single structure. However, Chiuariu later stated that he "did not intend" to make such a statement regarding changes in the prosecutorial administration, and indeed, the Liberal Government has spent much time over the past weeks denying that any such plan existed. European Commission Spokesman Mark Grey immediately responded that the National Anticorruption Directorate has demonstrated its effectiveness and that no changes to anticorruption institutions should be made.

¶7. (C) Comment: As we anticipated, the Ambassador's speech touched a nerve, and the issue continues to resonate in the press. Most Romanians with whom we have spoken -- whether in public or in private words of support to the Ambassador and other Embassy staff -- appreciate the fact that, once again, the U.S. government has stood up to express its support for reform in the Romanian justice system, and for continued progress in fighting official corruption. President Basescu personally telephoned the Ambassador to say that he was "100 percent" in support of the speech. Other EU embassies and the European Commission have told us that they shared our concerns and the Swedes, Austrians, Danes, Canadians, Dutch and Belgians are working behind the scenes to persuade key Romanian officials that the amendments would be viewed negatively by other partners of Romania's. We also expect prominent European political figures and commentators who follow developments in Romania to speak out as well, now that the floodgates are open. On November 22, German Bundestag Foreign Affairs Committee President Gunther Krichbaum criticized the delays in Romania's judicial reforms, adding that in Germany, Olteanu's ad hominem attacks on the Ambassador would have led to his resignation. While some of the amendments in the end might still be enacted, we are hopeful that the timely joint intervention on the part of the Ambassador and by our British colleagues will help forestall

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some of the more damaging proposed changes from becoming the law of the land, and shielding corrupt politicians and other criminals from prosecution. End Comment.

TAUBMAN